

end. If you do not agree with our appraisal, we will use the appraised amount of production or defer the claim if you agree to continue to care for the crop. We will then make another appraisal when you notify us of further damage or that harvest is general to the area unless you harvested the crop, in which case we will use the harvested production. If you do not continue to care for the crop, our appraisal made prior to deferring the claim will be used to determine the production to count; and

(2) All harvested production from the insurable acreage.

(3) Harvested production which, due to insurable causes, is determined not to meet the United States Standards for Fresh Cranberries if available, or would not meet those standards if properly handled, or does not meet the quality requirements of the receiving handler if the United States Standards for Fresh Cranberries, if not available, and such harvested production has a value less than 75 percent of the market price for cranberries meeting the minimum requirements will be adjusted by:

(i) Dividing the value per barrel of such cranberries by the market price per barrel for cranberries meeting the minimum requirements; and

(ii) Multiplying the result by the number of barrels of such cranberries.

#### 11. Late and Prevented Planting

The late and prevented planting provisions of the Basic Provisions are not applicable.

[62 FR 5905, Feb. 10, 1997, as amended at 62 FR 65172, Dec. 10, 1997]

### § 457.133 Prune crop insurance provisions.

The Prune Crop Insurance Provisions for the 2001 and succeeding crop years are as follows:

#### FCIC Policies

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

#### Reinsured Policies

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

#### Prune Crop Provisions

If a conflict exists among the policy provisions, the order of priority is as follows: (1) The Catastrophic Risk Protection Endorsement, if applicable; (2) the Special Provisions; (3) these Crop Provisions; and (4) the Basic Provisions with (1) controlling (2), etc.

#### 1. Definitions

*Direct marketing.* Sale of the insured crop directly to consumers without the intervention of an intermediary such as a wholesaler, retailer, packer, processor, shipper or buyer. Examples of direct marketing include: selling through an on-farm or roadside stand, farmer's market, and permitting the general public to enter the field for the purpose of picking all or a portion of the crop.

*Harvest.* Picking of mature prunes from the trees or ground either by hand or machine.

*Interplanted.* Acreage on which two or more crops are planted in any form of alternating or mixed pattern.

*Market price for standard prunes.* The price per ton shown on the processor's settlement sheet for each size count of standard prunes.

*Natural condition prunes.* The condition of prunes in which they are normally delivered from a dehydrator or dry yard.

*Prunes.* Any type or variety of plums that is grown in the area for the production of prunes and that meets the requirements defined in the applicable Federal Marketing Agreement Dried Prune Order.

*Standard prunes.* Any natural condition prunes:

(a) That grade "C" or better in accordance with the United States Standards for Grades of Fresh Plums and Prunes; or

(b) That meet or exceed the grading standards in effect for the crop year if a Federal Marketing Agreement Dried Prune Order has been established for the area in which the insured crop is grown.

*Substandard prunes.* Any natural condition prunes failing to meet the applicable grading specifications for standard prunes.

*Ton.* Two thousand (2,000) pounds avoirdupois.

#### 2. Unit Division

Provisions in the Basic Provisions that allow optional units by irrigated and non-irrigated practices are not applicable. Instead of establishing optional units by section, section equivalent, or FSA farm serial number optional units may be established if each optional unit is located on non-contiguous land.

#### 3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

In addition to the requirements of section 3 of the Basic Provisions:

(a) You may select only one price election for all the prunes in the county insured under this policy unless the Special Provisions provide different price elections by varietal group, in which case you may select one price election for each prune varietal group designated in the Special Provisions. The price elections you choose for each varietal group must have the same percentage relationship to the maximum price offered

by us for each varietal group. For example, if you choose 100 percent of the maximum price election for one varietal group, you must also choose 100 percent of the maximum price election for all other varietal groups.

(b) You must report, by the production reporting date designated in section 3 of the Basic Provisions, by varietal group if applicable:

- (1) Any damage, removal of trees, change in practices, or any other circumstance that may reduce the expected yields below the yield upon which the insurance guarantee is based, and the number of affected acres;
- (2) The number of bearing trees on insurable and uninsurable acreage;
- (3) The age of the trees and the planting pattern; and
- (4) For the first year of insurance for acreage interplanted with another perennial crop, and any time the planting pattern of such acreage is changed:
  - (i) The age of the interplanted crop, and varietal group if applicable;
  - (ii) The planting pattern; and
  - (iii) Any other information that we request in order to establish your approved yield.

We will reduce the yield used to establish your production guarantee as necessary, based on our estimate of the effect of interplanting the perennial crop; removal of trees; damage; a change in practices, and any other circumstance that may affect the yield potential of the insured crop. If you fail to notify us of any circumstance that may reduce your yields from previous levels, we will reduce your production guarantee at any time we become aware of the circumstance.

(c) You may not increase your elected or assigned coverage level or the ratio of your price election to the maximum price election if a cause of loss that could or would reduce the yield of the insured crop has occurred prior to the time that you request the increase.

4. Contract Changes

In accordance with section 4 of the Basic Provisions, the contract change date is October 31 preceding the cancellation date.

5. Cancellation and Termination Dates

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are January 31.

6. Insured Crop

In accordance with section 8 of the Basic Provisions, the crop insured will be all the prunes in the county for which a premium rate is provided by the actuarial documents:

- (a) In which you have a share;
- (b) That are grown for the production of natural condition prunes;
- (c) That are grown on tree varieties that:

- (1) Were commercially available when the trees were set out;
- (2) Are adapted to the area;
- (3) Are grown on rootstock that is adapted to the area; and
- (4) Are irrigated (except where otherwise provided in the Special Provisions);
- (d) That are grown in an orchard that, if inspected, is considered acceptable by us; and
- (e) That are grown on trees that have reached at least the seventh growing season after being set out.

7. Insurable Acreage

In lieu of the provisions in section 9 of the Basic Provisions that prohibit insurance attaching to a crop planted with another crop, prunes interplanted with another perennial crop are insurable unless we inspect the acreage and determine that it does not meet the insurability requirements contained in your policy.

8. Insurance Period

(a) In accordance with the provisions of section 11 of the Basic Provisions:

- (1) Coverage begins for each crop year on March 1.
- (2) The calendar date for the end of the insurance period for each crop year is:
  - (i) October 1 for California; or
  - (ii) October 15 for Oregon.
- (b) In addition to the provisions of section 11 of the Basic Provisions:

(1) If you acquire an insurable share in any insurable acreage after coverage begins but on or before the acreage reporting date for the crop year, and after an inspection we consider the acreage acceptable, insurance will be considered to have attached to such acreage on the calendar date for the beginning of the insurance period.

(2) If you relinquish your insurable share on any insurable acreage of prunes on or before the acreage reporting date for the crop year and if the acreage was insured by you the previous crop year, insurance will not be considered to have attached to, and no premium or indemnity will be due for such acreage for that crop year unless:

- (i) A transfer of coverage and right to an indemnity, or a similar form approved by us, is completed by all affected parties;
- (ii) We are notified by you or the transferee in writing of such transfer on or before the acreage reporting date; and
- (iii) The transferee is eligible for crop insurance.

(c) Notwithstanding paragraph (a)(1) of this section, for each subsequent crop year that the policy remains continuously in force, coverage begins on the day immediately following the end of the insurance period for the prior crop year. Policy cancellation that results solely from transferring to

a different insurance provider for a subsequent crop year will not be considered a break in continuous coverage.

(d) If your prune policy is canceled or terminated for any crop year, in accordance with the terms of the policy, after insurance attached for that crop year but on or before the cancellation and termination dates whichever is later, insurance will not be considered to have attached for that crop year and no premium, administrative fee, or indemnity will be due for such crop year.

#### 9. Causes of Loss

(a) In accordance with the provisions of section 12 of the Basic Provisions, insurance is provided only against the following causes of loss that occur during the insurance period:

- (1) Adverse weather conditions;
- (2) Fire, unless weeds and undergrowth have not been controlled or pruning debris has not been removed from the orchard;
- (3) Wildlife;
- (4) Earthquake;
- (5) Volcanic eruption; or
- (6) Failure of the irrigation water supply, if due to a cause specified in section 9(a)(1) through (5) that occurs during the insurance period.

(b) In addition to the causes of loss excluded in section 12 of the Basic Provisions, we will not insure against damage or loss of production due to:

- (1) Disease or insect infestation, unless adverse weather:
  - (i) Prevents the proper application of control measures or causes properly applied control measures to be ineffective; or
  - (ii) Causes disease or insect infestation for which no effective control mechanism is available; or
- (2) Inability to market the prunes for any reason other than actual physical damage from an insurable cause specified in this section. For example, we will not pay you an indemnity if you are unable to market due to quarantine, boycott, or refusal of any person to accept production.

#### 10. Duties in the Event of Damage or Loss

In addition to the requirements of section 14 of the Basic Provisions, the following will apply:

- (a) You must notify us within 3 days of the date harvest should have started if the crop will not be harvested.
- (b) You must notify us at least 15 days before any production from any unit will be sold by direct marketing or sold as fresh fruit. We will conduct an appraisal that will be used to determine your production to count for production that is sold by direct marketing or is sold as fresh fruit production. If damage occurs after this appraisal, we will conduct an additional appraisal.

These appraisals, and any acceptable records provided by you, will be used to determine your production to count. Failure to give timely notice that production will be sold by direct marketing or sold as fresh fruit will result in an appraised amount of production to count of not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.

(c) If you intend to claim an indemnity on any unit, you must notify us at least 15 days prior to the beginning of harvest, or immediately if damage is discovered during harvest, so that we may inspect the damaged production.

(d) You must not destroy the damaged crop until after we have given you written consent to do so. If you fail to meet the requirements of this section and such failure results in our inability to inspect the damaged production, all such production will be considered undamaged and included as production to count.

#### 11. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:

(1) For any optional units, we will combine all optional units for which such production records were not provided; or

(2) For any basic units, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage for each varietal group, if applicable, by its respective production guarantee;

(2) Multiplying the result of 11(b)(1) by the respective price election for each varietal group, if applicable;

(3) Totaling the results of section 11(b)(2) if there is more than one varietal group;

(4) Multiplying the total production to count (see section 11(c)), of each varietal group if applicable, by its respective price election;

(5) Totaling the results of section 11(b)(4) if there is more than one varietal group;

(6) Subtracting the result of section 11(b)(4) from the result of section 11(b)(2) if there is only one varietal group or subtracting the result of section 11(b)(5) from the result of section 11(b)(3) if there is more than one varietal group; and

(7) Multiplying the result of section 11(b)(6) by your share.

#### For Example

You have a 100 percent share in 50 acres of varietal group A prunes in the unit, with a guarantee of 2.5 tons per acre and a price election of \$630.00 per ton. You are only able

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to harvest 10.0 tons. Your indemnity would be calculated as follows:

- (1) 50 acres × 2.5 tons = 125.0 ton guarantee;
- (2) 125.0 tons × \$ 630.00 price election = \$78,750.00 value of guarantee;
- (4) 10.0 tons × \$630.00 price election = \$6,300.00 value of production to count;
- (6) \$78,750.00 - \$6,300.00 = \$72,450.00 loss; and
- (7) \$72,450.00 × 100 percent = \$72,450 indemnity payment.

You also have a 100 percent share in 50 acres of varietal group B prunes in the same unit, with a guarantee of 2.0 ton per acre and a price election of \$550.00 per ton. You are only able to harvest 5.0 tons. Your total indemnity for both varietal groups A and B would be calculated as follows:

- (1) 50 acres × 2.5 tons = 125.0 ton guarantee for varietal group A and 50.0 acres × 2.0 tons = 100.0 ton guarantee for varietal group B;
- (2) 125.0 ton guarantee × \$630.00 price election = \$78,750.00 value of guarantee for varietal group A and 100.0 ton guarantee × \$550.00 price election = \$55,000.00 value guarantee for varietal group B;
- (3) \$78,750.00 + \$55,000.00 = \$133,750.00 total value guarantee;
- (4) 10.0 tons × \$630.00 price election = \$6,300.00 value of production to count for varietal group A and 5.0 tons × \$550.00 price election = \$2,750.00 value of production to count for varietal group B;
- (5) \$6,300.00 + \$2,750.00 = \$9,050.00 total value of production to count;
- (6) \$133,750.00 - \$9,050.00 = \$124,700.00 loss; and
- (7) \$124,700.00 loss × 100 percent = \$124,700 indemnity payment.

(c) The total production to count (in tons) from all insurable acreage on the unit will include all harvested and appraised production of natural condition prunes that grade substandard or better and any production that is harvested and intended for use as fresh fruit. The total production to count will include:

- (1) All appraised production as follows:
  - (i) Not less than the production guarantee per acre for acreage:
    - (A) That is abandoned;
    - (B) That is sold by direct marketing or sold as fresh fruit if you fail to meet the requirements contained in section 10;
    - (C) That is damaged solely by uninsured causes; or
    - (D) For which you fail to provide acceptable production records;
  - (ii) Production lost due to uninsured causes;
  - (iii) Unharvested production; and
  - (iv) Potential production on insured acreage you intend to abandon or no longer care for, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end. If you do not agree with our appraisal, we may defer the claim only if you agree to

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continue to care for the crop. We will then make another appraisal when you notify us of further damage or that harvest is general in the area unless you harvested the crop, in which case we will use the harvested production. If you do not continue to care for the crop, our appraisal made prior to deferring the claim will be used to determine the production to count; and

(2) All harvested production from the insurable acreage.

(d) Any prune production harvested for fresh fruit will be converted to a dried prune weight basis by dividing the total amount (in tons) of fresh fruit production by 3.0.

(e) Any production of substandard prunes resulting from damage by insurable causes will be adjusted based on the average size count as indicated on the applicable Dried Fruit Association (DFA) Inspection Report and Certification Form. Any insurable damage will be adjusted by:

- (1) Dividing the value per ton of such substandard prunes by the market price per ton for standard prunes (of the same size count); and
- (2) Multiplying the result by the number of tons of such prunes.

### 12. Late and Prevented Planting

The late and prevented planting provisions of the Basic Provisions are not applicable.

[62 FR 58630, Oct. 30, 1997, as amended at 62 FR 65172, Dec. 10, 1997; 65 FR 47839, Aug. 4, 2000]

## § 457.134 Peanut crop insurance provisions.

The Peanut Crop Insurance Provisions for the 2007 and succeeding crop years are as follows:

FCIC policies: United States Department of Agriculture, Federal Crop Insurance Corporation.

Reinsured policies: (Appropriate title for insurance provider).

Both FCIC and reinsured policies.

*Peanut Crop Insurance Provisions.*

### 1. Definitions

*Base contract price.* The price for farmers' stock peanuts stipulated in the sheller contract, without regard to discounts or incentives that may apply, not to exceed the price election times the price factor specified in the Special Provisions.

*Farmers' stock peanuts.* Picked or threshed peanuts produced in the United States, which are not shelled, crushed, cleaned, or otherwise changed (except for removal of foreign material, loose shelled kernels and excess moisture) from the condition in which